

**DISTRICT OF COLUMBIA
DOH OFFICE OF ADJUDICATION AND HEARINGS**

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

TAI SHAN RESTAURANT and
XIO CHANG HUANG
Respondents

Case No.: I-00-70211

ORDER OF DISMISSAL FOR WANT OF PROSECUTION

On May 2, 2002, this administrative court issued a Case Management Order Regarding Respondents' Request For Hearing. Among other things, that Order set a hearing date of May 24, 2002 and required the parties to submit witness lists and copies of all documents that they would seek to offer into evidence at the hearing. These submissions were due no later than May 14, 2002.

The specified information is necessary as a matter of fundamental fairness to Respondents so that they may have adequate information to prepare its defense against the Government's prosecution. The information is also required in the interest of sound judicial administration.

For those reasons, the May 2nd Order made clear the consequences of the Government's failure to comply:

[B]ecause timely compliance with this Order is necessary to ensure a fair, just, prompt and orderly trial on the merits, should the Government, as prosecuting agent, fail to timely comply with the requirements of this Order, this case shall be subject to dismissal

for want of prosecution for the Government's failure to indicate the existence and availability of evidence through which it can meet its burden of proof and burden of going forward with the evidence under the Civil Infractions Act of 1985 and other applicable law. *See* D.C. Official Code § 2-1802.03(a); SCR Civil Rule 41(b).

The deadline for filing has passed without any submissions from the Government as specified in the May 2nd Order. Moreover, the Government has not filed a motion for an extension of the deadline. Accordingly, it has failed "to indicate the existence and availability of evidence through which it can meet its burden of proof and burden of going forward with the evidence," and the Notice of Infraction must be dismissed.

Therefore, based on the entire record in this matter, it is this _____ day of _____, 2002:

ORDERED, that Notice of Infraction No. 00-70211 is hereby **DISMISSED** for want of prosecution; and it is further

ORDERED, that the May 24, 2002 hearing is **CANCELED**; and it is further

ORDERED, that any motion by the Government requesting that this Order be vacated and the case restored to the docket for a hearing must be filed within fourteen (14) days of the date of this order and must show good cause why the case should not be dismissed. *See* SCR Civil Rule 41(b).

/s/ **05/21/02**

John P. Dean
Administrative Judge